IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH JANUARY 2007 / 5TH MAGHA 1928

WP(C).No. 34515 of 2006(H)

PETITIONER:

VASUDEVAN PILLAI, AGED 46 YEARS,
S/O.RAMAN PILLAI, MAKAYIRAM VEETTIL,
KOZHUVALLOOR MURI, MULAKKUZHA VILLAGE,
CHENGANNUR.

BY ADV. SRI.R.REJI
SMT.C.A.AJITHA SALAM

RESPONDENTS:

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1. THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

2. SUPERINTENDENT OF POLICE, ALAPPUZHA.

3. THE DEPUTY SUPERINTENDENT OF POLICE,
CHENGANNUR.

4. THE CIRCLE INSPECTOR OF POLICE,
CHENGANNUR.

5. THE SUB INSPECTOR OF POLICE,
CHENGANNUR.

6. THE ADDL.SUB INSPECTOR OF POLICE,
CHENGANNUR.

7. THE REVENUE DIVISIONAL OFFICER,
CHENGANNUR.

8. SENIOR LECTURER IN FORENSIC MEDICINE,
OFFICE OF THE POLICE SURGEON AND DEPARTMENT
OF FORENSIC MEDICINE, T.D. MEDICAL COLLEGE,
ALAPPUZHA.

BY GOVERNMENT PLEADER SMT.LATHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.34515 of 2006

Dated this the 25th day of January, 2007

JUDGMENT

The petitioner is the younger brother of the deceased. He is the defacto complainant in Crime No.512 of 2006. The said crime relates to the unnatural and allegedly suspicious death of the brother of the petitioner one Sasidharan Pillai, who was allegedly found hanging on a rubber tree at the rear of his house. The crime was registered on 20.10.2006. Postmortem examination has been conducted. The local Sub Inspector of Police, ie. the 5th respondent is conducting the investigation. The petitioner had come to this Court with this petition on 21.12.2006 complaining about the inadequate investigation conducted by the local police, ie. the 5th respondent.

2. The petitioner has enumerated various reasons on the basis of which he concludes that the police is not conducting a proper investigation. According to him, postmortem staining was found fixed on the back of the body. This is unlikely to happen in a case of hanging, submits the petitioner's counsel. It is further contended that without and before making any serious effort to get the chemical examination report, the police is jumping to the unnecessarily hasty conclusion that this is a case of hanging. The doctor who conducted the postmortem examination has not been questioned specifically on

the postmortem staining on the back and fixed and also of blood marks which were found on the person of the deceased. It is further submitted that the deceased was allegedly having a strained relationship with his in-laws and no serious effort has been made by the Investigating Officer to collect and verify facts on that aspect. It is finally submitted that the son-in-law of the deceased has been absconding from the scene after the death of the deceased. This also arouses suspicion.

3. After the respondents filed a counter statement, the petitioner has again filed a reply statement in which he has made further allegations also against the Investigating Officer. According to him, the petitioner was taken into custody and harassed by the Investigating Officer with request to make available the photographs which the police had got taken by a local photographer. It is contended that the petitioner was kept in illegal custody. It is further pointed out that in collusion with the wife of the deceased, a totally false complaint has been filed by the police alleging commission of offences punishable, inter alia, under Sections 452 & 354 I.P.C. In these circumstances, it is prayed that in the interests of a proper and effective investigation and in the interest of bringing out truth about the incident, investigation may be entrusted to any senior police offficial of proven integrity and competence. In the absence of such

an investigation, it will not be possible to ascertain the truth. The petitioner and his relatives will not get the satisfaction that the true cause of death has been ascertained.

4. I have perused the writ petition, the exhibits, the counter statement filed by the 5th respondent, the reply statement and affidavits filed by the petitioner. I shall carefully avoid any expression of opinion on merits. Suffice it to say that a careful and anxious consideration of all the relevant inputs lead the Court to the unmistakable conclusion that the matter deserves to be entrusted for further and proper investigation to a senior police official of proven efficiency and competence. To a pointed query of this Court, it is not disputed that the medical officer who conducted the postmortem examination has not been questioned specifically on the postmortem staining found fixed on the back or about the greenish discolouration of right lower quadrant of abdomen. The photographs have been produced by the petitioner and they reveal that the deceased was found almost in standing position with the noose around his neck.

5. I am, in these circumstances, satisfied that the investigation of this crime must be entrusted to a senior police official to be chosen by the 2nd respondent - the Superintendent of Police, Alappuzha. The 2nd respondent shall hand over the investigation to a senior police official of proven competence and efficiency. Necessary

action shall be taken within a period of one month. Report about the action taken by the 2nd respondent shall be made to this Court by a statement to be filed, within a period of 45 days with copy to the counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-